United Nations A/HRC/29/NGO/41

General Assembly

Distr.: General
4 June 2015

English only

Human Rights Council
Twenty-ninth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-11409 (E)
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Indonesia: land grabbing and rights abuse occurs widely under 'economic development'

1. State party to the International Covenant on Economic, Social and Cultural Rights (IESCSR), Indonesia has a domestic law promulgating the Covenant as well as relevant provisions in its Constitution, particularly regarding ensuring an adequate standard of living for all. Nevertheless, widespread human rights violations are occurring in the area of land and natural resources. Not only are government policies detrimental to farmers, state officers are themselves involved in land grabbing and other rights abuses.

2. While Article 33 of the Indonesian Constitution provides that "Land, the waters, and the natural resources within shall be under the power of the state and shall be used to the greatest benefit of the people", the government's policy on access to land and natural resources is causing harm to the society and farmers. Land grabbing, denial of customary land rights of indigenous communities, and environmental damage due to the government's policy to provide land for large-scale commercial agriculture and extractive industries are all resulting in increasing landless farmers and natural resources conflicts. According to the Land Reform Commission, a national NGO documenting land conflict, between 2004 and 2013, 987 cases of land conflict occurred. In 2013, the number had increased to 369 cases, from the 198 documented in 2012. There was also a significant increase in the amount of land involved in conflict; from 318,248.89 hectares in 2012, the area expanded to 1,281,660.09 hectares in 2013.

3. Under the decentralization of governance (*otonomi daerah*), local governments have the authority to issue business licenses without approval from the local parliament or central government. According to national NGO Mining Advocacy Network (JATAM), the issuance of licenses has becoming a profitable business to finance local electoral campaigns, and land deals for business and mining areas generally take place before and during local elections. Local authorities issue mining permits on community or customary land, and security agencies force people to accept this on the pretext of economic development. The Regent elected in Bima Regency, West Nusa Tenggara Province in September 2011 for instance, issued a mining permit on the land belonging to local farmers.

4. The Master Plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI), launched in 2011, is a project with great potential for rights violations. Since 2011, the Indonesian government has issued 44 regulations in favor of providing land for investors, none of which prioritize protecting human rights. All 44 regulations are in fact being used to legitimize the government's confiscation of land from farmers and local community, as well as customary land from the indigenous people.

5. The expansion of the Merauke Integrated Food and Energy Estate (MIFEE), located in the Papuan province of Indonesia, is a current project within the MP3EI. Indonesian human rights groups, such as the Indonesian Forum for the Environment (WALHI) and JATAM have documented land grabbing conducted by MIFEE against indigenous Papuans. Similarly, a plantation company in Karawang Regency, West Java Province, occupied local farmers' lands without any consent. WALHI also documented that the plantation company and the local police were complicit in aggression towards the farmers protesting the occupation, including shooting the farmers with rubber bullets, kicking and beating them, and forcibly dispersing them.

6. The perpetrators of human rights violations in the area of mining and access to land largely consist of police officers, military personnel, civil service police units, multinational corporations, thugs, and private security guards. Police officers commit the most human rights violations in mining and land confiscations. The case of police officers in Rembang Regency, Central Java, brutally attacking and arresting farmers protesting the government's decision to issue a permit to a cement company on their land in 2014 is indicative.

7. The Asian Legal Resource Centre (ALRC) is aware that the Indonesian Military has a long history of being involved in business and in internal political affairs. In 2004, the Parliament promulgated Law No. 34 mandating the government to eradicate Military involvement in business activities, but it remains unclear how the law is being implemented.

Similarly, Presidential Decree No. 43 of 2009, concerning taking over of military business, echoes Law No. 34, but its implementation also remains unclear.

8. Activists defending land rights are victim to arbitrary arrest, detention, intimidation, and fabricated charges. In the extreme, they are also victims of assassination, as in the case of Mr. Indra Pelani, who was brutally killed by private security guards of the Wira Karya Sakti Company (PT WKS) in February 2015. Indra was a member of the Sekato Peasant Group and he was active in promoting and advocating land rights on behalf of local peasants in Jambi Province and against PT WKS, which is occupying thousands of hectares of peasant land.

9. In another case known to the ALRC, human rights defender Anwar Sadat, from a local environmental group, was brutally attacked and charged with criminal offence by the police officers of South Sumatera Province in 2013. Anwar was attacked due to his advocacy efforts defending land rights of local farmers. Similar cases also occurred in Bima Regency, West Nusa Tenggara Province, in 2011. The police shot local farmers and residents peacefully protesting land confiscations and illegal mining in the area of Sape Port. Three people died, while a dozen more were seriously injured.

10. The above information clearly indicates that the Indonesian government must take effective steps to prevent land rights violations, as well as ensure that remedies are available to those suffering from violations. Towards this end, the Human Rights Council should urge the government to:

a. Protect the right of indigenous communities and local farmers to access their land and benefit from natural resources. Part of such protection is ensuring that all development investors and companies comply with human rights laws and standards;

b. Ensure that peaceful demonstrations against land confiscations, illegal mining, and other rights abuses are not subject to criminal charges and excessive use of force. Those involved in such force and wrongdoing should be investigated and punished accordingly. Moreover, Law No. 32 of 2009 on Environmental Protection and Management, which states that all those advocating environmental rights must be protected and cannot be prosecuted, should be implemented immediately;

c. Provide adequate and effective remedy and compensation for communities and individuals who suffered damages or lost their properties and belongings.

d. Effectively implement Law No. 34 of 2004 to reduce the involvement of security actors in business, and prosecute all those found to be violating the law.

e. Review the implementation of MP3EI, which is causing significant human rights abuses.